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LEWIS BRISBOIS BISGAARD & SMITH LLP

CHRISTOPHER P. BISGAARD, SB# 53164

MALISSA HATHAWAY McKEITH, SB# 11291

CHARLES D. FERRARI, SB# 130186

221 North Figueroa Street, Suite 1200

Los Angeles, California 90012

Telephone: (213) 250-1800

Facsimile: (213) 250-7900

Attorneys for Defendant

NORTHROP GRUMMAN SYSTEMS CORPORATION

(erroneously served as Northrop Corporation and

Northrop Grumman Corporation)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

ORANGE COUNTY WATER DISTRICT,

Plaintiff,

v.

NORTHROP CORPORATION, NORTHROP
GRUMMAN CORPORATION; AMERICAN
ELECTRONICS, INC.; MAG AEROSPACE
INDUSTRIES, INC.; GULTON INDUSTRIES,
INC.; MARK IV INDUSTRIES, INC. EDO
CORPORATION; AEROJET-GENERAL
CORPORATION; MOORE BUSINESS
FORMS, INC.; AC PRODUCTS, INC.
FULLERTON MANUFACTURING
COMPANY; FULLERTON BUSINESS PARK
LLC; and DOES 1 through 400, inclusive,

Defendant.

CASE NO. 04CC00715

(Assigned for All Purposes to Hon. Ronald L.
Bauer, Dept. CX-103)

**VERIFIED FIRST AMENDED ANSWER
AND AFFIRMATIVE DEFENSES OF
NORTHROP GRUMMAN SYSTEMS
CORPORATION (erroneously named as
Northrop Corporation and Northrop
Grumman Corporation) TO PLAINTIFF
ORANGE COUNTY WATER DISTRICT'S
FIRST AMENDED COMPLAINT**

AND RELATED CROSS-COMPLAINTS

Defendant NORTHROP GRUMMAN SYSTEMS CORPORATION (erroneously named as
Northrop Corporation and Northrop Grumman Corporation) ("NORTHROP") by and through it
counsel answers Plaintiff ORANGE COUNTY WATER DISTRICT's unverified First Amended
Complaint ("FAC") as follows:

1 1. NORTHROP avers that the first paragraph of the FAC contains statements of intent
2 or legal conclusions rather than factual allegations. NORTHROP is not required to answer such
3 legal conclusions. To the extent paragraph 1 contains allegations requiring a response,
4 NORTHROP's information or belief upon the matters in the first paragraph of plaintiff's First
5 Amended Complaint ("FAC") are insufficient to enable an answer and on that basis NORTHROP
6 denies the allegations in said paragraph of the FAC.

7 2. NORTHROP avers that the second paragraph of the FAC contains statements of
8 intent or legal conclusions rather than factual allegations. NORTHROP is not required to answer
9 such legal conclusions. To the extent paragraph 2 contains allegations requiring a response,
10 NORTHROP's information or belief upon the matters in the second paragraph of the FAC are
11 insufficient to enable an answer and on that basis NORTHROP denies the allegations in said
12 paragraph of the FAC.

13 3. NORTHROP admits the first phrase in the third paragraph of the FAC, and denies all
14 other portions of said paragraph of the FAC.

15 4. NORTHROP avers that the fourth paragraph of the FAC contains statements of
16 intent or legal conclusions rather than factual allegations. NORTHROP is not required to answer
17 such legal conclusions. To the extent paragraph 4 contains allegations requiring a response,
18 NORTHROP's information or belief upon the matters in the fourth paragraph of the FAC are
19 insufficient to enable an answer and on that basis NORTHROP denies the allegations in said
20 paragraph of the FAC.

21 5. NORTHROP avers that the fifth paragraph of the FAC contains statements of intent
22 or legal conclusions rather than factual allegations. NORTHROP is not required to answer such
23 legal conclusions. To the extent paragraph 5 contains allegations requiring a response,
24 NORTHROP's information or belief upon the matters in the fifth paragraph of the FAC are
25 insufficient to enable an answer and on that basis NORTHROP denies the allegations in said
26 paragraph of the FAC.

27 6. NORTHROP avers that the sixth paragraph of the FAC contains statements of intent
28 or legal conclusions rather than factual allegations. NORTHROP is not required to answer such

1 legal conclusions. To the extent paragraph 6 contains allegations requiring a response,
2 NORTHROP's information or belief upon the matters in the sixth paragraph of the FAC are
3 insufficient to enable an answer and on that basis NORTHROP denies the allegations in said
4 paragraph of the FAC.

5 7. NORTHROP avers that the seventh paragraph of the FAC solely contains statements
6 of intent not requiring a response from NORTHROP. To the extent paragraph 7 contains allegations
7 requiring a response, NORTHROP's information or belief upon the matters in the seventh paragraph
8 of the FAC are insufficient to enable an answer and on that basis NORTHROP denies the
9 allegations in said paragraph of the FAC.

10 8. NORTHROP denies the first, third and fourth sentences in the eighth paragraph of the
11 FAC. Northrop admits the second sentence in the eighth paragraph of the FAC and affirmatively
12 alleges that Northrop Corporation became Northrop Grumman Corporation which became and is
13 now Defendant Northrop Grumman Systems Corporation.

14 9. NORTHROP admits the second and third sentences in the ninth paragraph of the
15 FAC and denies the remaining allegations in said paragraph. NORTHROP affirmatively alleges that
16 the Northrop Grumman Corporation referenced in paragraph 9 of the FAC is Northrop Grumman
17 Systems Corporation, and that the existing Northrop Grumman Corporation is a separate and
18 distinct legal entity from the Northrop Grumman Corporation referenced in the ninth paragraph of
19 the FAC.

20 10. Answering paragraph 10 of the FAC, NORTHROP is without sufficient knowledge
21 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
22 denies them.

23 11. Answering paragraph 11 of the FAC, NORTHROP is without sufficient knowledge
24 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
25 denies them.

26 12. Answering paragraph 12 of the FAC, NORTHROP is without sufficient knowledge
27 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
28 denies them.

1 13. Answering paragraph 13, of the FAC, NORTHROP is without sufficient knowledge
2 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
3 denies them.

4 14. Answering paragraph 14 of the FAC, NORTHROP is without sufficient knowledge
5 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
6 denies them.

7 15. Answering paragraph 15 of the FAC, NORTHROP is without sufficient knowledge
8 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
9 denies them.

10 16. Answering paragraph 16 of the FAC, NORTHROP is without sufficient knowledge
11 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
12 denies them.

13 17. Answering paragraph 17 of the FAC, NORTHROP is without sufficient knowledge
14 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
15 denies them.

16 18. Answering paragraph 18 of the FAC, NORTHROP is without sufficient knowledge
17 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
18 denies them.

19 19. Answering paragraph 19 of the FAC, NORTHROP is without sufficient knowledge
20 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
21 denies them.

22 20. Answering paragraph 20 of the FAC, NORTHROP is without sufficient knowledge
23 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
24 denies them.

25 21. Answering paragraph 21 of the FAC, NORTHROP is without sufficient knowledge
26 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
27 denies them.

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1 22. Answering paragraph 22 of the FAC, NORTHROP is without sufficient knowledge
2 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
3 denies them.

4 23. NORTHROP avers that paragraph 23 of the FAC appears to contain mainly
5 Plaintiff's definitions not requiring a response from Northrop. To the extent the paragraph contains
6 allegations requiring a response from Northrop, Northrop is without sufficient knowledge or
7 information to form a belief as to the truth of the allegations and on that basis denies them.

8 24. NORTHROP admits PCE and TCE are organic compounds that can be used as
9 cleaning solvents. As to the remainder of paragraph 24 of the FAC, Northrop is without sufficient
10 knowledge or information to form a belief as to the truth of the allegations and on that basis denies
11 them.

12 25. NORTHROP avers that paragraph 25 of the FAC appears to contain a statement of
13 opinion and legal conclusions not requiring a response from Northrop. To the extent the paragraph
14 contains allegations requiring a response from Northrop, Northrop is without sufficient knowledge
15 or information to form a belief as to the truth of the allegations and on that basis denies them.

16 26. NORTHROP's information or belief upon the matters in the twentieth-sixth paragraph
17 of the FAC are insufficient to enable an answer and on that basis NORTHROP denies the
18 allegations in said paragraph of the FAC.

19 27. NORTHROP denies the allegations in the twenty-seventh paragraph of the FAC as to
20 301 East Orangethorpe Avenue, Anaheim, California and 500 East Orangethorpe Avenue, Anaheim,
21 California. NORTHROP's information or belief upon the remaining matters alleged in the twenty-
22 seventh paragraph of the FAC are insufficient as to the remaining properties to enable an answer
23 and on that basis NORTHROP denies them

24 28. NORTHROP avers that paragraph 28 of the FAC contains legal conclusions not
25 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
26 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
27 to the truth of the allegations and on that basis denies them.

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FIRST CAUSE OF ACTION**(Orange County Water District Act – Against All Defendants)**

29. NORTHROP answers paragraph 29 of the FAC by incorporating by reference its responses to paragraphs 1 through 28.

30. The allegations in the first sentence of paragraph 30 are a legal conclusion which NORTHROP is not required to answer. NORTHROP's information or belief upon the remaining matters in paragraph 30 of the FAC are insufficient to enable an answer and on that basis NORTHROP denies the allegations in said paragraph of the FAC.

31. Answering paragraph 31 of the FAC, NORTHROP is without sufficient knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis, denies them.

32. Answering paragraph 32 of the FAC, NORTHROP is without sufficient knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis, denies them.

33. Answering paragraph 33 of the FAC, NORTHROP is without sufficient knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis, denies them.

34. NORTHROP avers that paragraph 34 of the FAC contains legal conclusions not requiring a response from Northrop. To the extent the paragraph contains allegations requiring a response from Northrop, Northrop is without sufficient knowledge or information to form a belief as to the truth of the allegations and on that basis denies them.

35. NORTHROP avers that paragraph 35 of the FAC contains legal conclusions not requiring a response from Northrop. To the extent the paragraph contains allegations requiring a response from Northrop, Northrop is without sufficient knowledge or information to form a belief as to the truth of the allegations and on that basis denies them.

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SECOND CAUSE OF ACTION**(California Superfund Act – Against All Defendants)**

36. NORTHROP answers paragraph 36 of the FAC by incorporating by reference its responses to paragraphs 1 through 33.

37. NORTHROP avers that paragraph 37 of the FAC contains legal conclusions not requiring a response from Northrop. To the extent the paragraph contains allegations requiring a response from Northrop, Northrop is without sufficient knowledge or information to form a belief as to the truth of the allegations and on that basis denies them.

38. NORTHROP avers that paragraph 38 of the FAC contains legal conclusions not requiring a response from Northrop. To the extent the paragraph contains allegations requiring a response from Northrop, Northrop is without sufficient knowledge or information to form a belief as to the truth of the allegations and on that basis denies them.

39. NORTHROP avers that paragraph 39 of the FAC contains legal conclusions and statements of Plaintiff's intent not requiring a response from Northrop. To the extent the paragraph contains allegations requiring a response from Northrop, Northrop is without sufficient knowledge or information to form a belief as to the truth of the allegations and on that basis denies them.

40. NORTHROP avers that paragraph 40 of the FAC contains legal conclusions and statements of Plaintiff's intent not requiring a response from Northrop. To the extent the paragraph contains allegations requiring a response from Northrop, Northrop is without sufficient knowledge or information to form a belief as to the truth of the allegations and on that basis denies them.

41. NORTHROP avers that paragraph 41 of the FAC contains statements of Plaintiff's intent not requiring a response from Northrop. To the extent the paragraph contains allegations requiring a response from Northrop, Northrop is without sufficient knowledge or information to form a belief as to the truth of the allegations and on that basis denies them.

THIRD CAUSE OF ACTION**(Negligence – Against All Defendants)**

42. NORTHROP answers paragraph 42 of the FAC by incorporating by reference its responses to paragraphs 1 through 39.

1 43. NORTHROP avers that paragraph 43 of the FAC contains legal conclusions not
2 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
3 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
4 to the truth of the allegations and on that basis denies them.

5 44. NORTHROP avers that paragraph 44 of the FAC contains legal conclusions not
6 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
7 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
8 to the truth of the allegations and on that basis denies them.

9 45. NORTHROP avers that paragraph 45 of the FAC contains legal conclusions not
10 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
11 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
12 to the truth of the allegations and on that basis denies them.

13 46. NORTHROP avers that paragraph 46 of the FAC contains legal conclusions not
14 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
15 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
16 to the truth of the allegations and on that basis denies them.

17 47. Answering paragraph 47 of the FAC, NORTHROP is without sufficient knowledge
18 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
19 denies them.

20 48. NORTHROP avers that paragraph 48 of the FAC contains legal conclusions not
21 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
22 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
23 to the truth of the allegations and on that basis denies them.

24 49. Answering paragraph 49 of the FAC, NORTHROP is without sufficient knowledge
25 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
26 denies them.

27 50. NORTHROP avers that paragraph 50 of the FAC contains legal conclusions not
28 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a

1 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
2 to the truth of the allegations and on that basis denies them.

3 51. NORTHROP avers that paragraph 51 of the FAC contains legal conclusions not
4 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
5 response from Northrop, Northrop denies the allegations.

6 **FOURTH CAUSE OF ACTION**

7 **(Nuisance – Against All Defendants)**

8 52. NORTHROP answers paragraph 52 of the FAC by incorporating by reference its
9 responses to paragraphs 1 through 49.

10 53. NORTHROP avers that paragraph 53 of the FAC contains legal conclusions not
11 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
12 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
13 to the truth of the allegations and on that basis denies them.

14 54. NORTHROP avers that paragraph 54 of the FAC contains legal conclusions not
15 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
16 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
17 to the truth of the allegations and on that basis denies them.

18 55. NORTHROP avers that paragraph 55 of the FAC contains legal conclusions and
19 statements of Plaintiff's intent not requiring a response from Northrop. To the extent the paragraph
20 contains allegations requiring a response from Northrop, Northrop is without sufficient knowledge
21 or information to form a belief as to the truth of the allegations and on that basis denies them.

22 56. Answering paragraph 56 of the FAC, NORTHROP is without sufficient knowledge
23 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
24 denies them.

25 57. NORTHROP avers that paragraph 57 of the FAC contains legal conclusions not
26 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
27 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
28 to the truth of the allegations and on that basis denies them.

1 58. NORTHROP avers that paragraph 58 of the FAC contains legal conclusions not
2 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
3 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
4 to the truth of the allegations and on that basis denies them.

5 59. NORTHROP avers that paragraph 59 of the FAC contains legal conclusions not
6 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
7 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
8 to the truth of the allegations and on that basis denies them.

9 60. NORTHROP avers that paragraph 60 of the FAC contains legal conclusions not
10 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
11 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
12 to the truth of the allegations and on that basis denies them.

13 61. NORTHROP avers that paragraph 61 of the FAC contains legal conclusions not
14 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
15 response from Northrop, Northrop denies the allegations.

16 **FIFTH CAUSE OF ACTION**

17 **(Trespass – Against All Defendants)**

18 62. NORTHROP answers paragraph 62 of the FAC by incorporating by reference its
19 responses to paragraphs 1 through 59.

20 63. NORTHROP avers that paragraph 63 of the FAC contains legal conclusions not
21 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
22 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
23 to the truth of the allegations and on that basis denies them.

24 64. NORTHROP avers that paragraph 64 of the FAC contains legal conclusions not
25 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
26 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
27 to the truth of the allegations and on that basis denies them.

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1 65. NORTHROP avers that paragraph 65 of the FAC contains legal conclusions not
2 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
3 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
4 to the truth of the allegations and on that basis denies them.

5 66. NORTHROP avers that paragraph 66 of the FAC contains legal conclusions not
6 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
7 response from Northrop, Northrop is without sufficient knowledge or information to form a belief as
8 to the truth of the allegations and on that basis denies them.

9 67. NORTHROP avers that paragraph 67 of the FAC contains legal conclusions not
10 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
11 response from Northrop, Northrop denies the allegations.

12 **SIXTH CAUSE OF ACTION**

13 **(Declaratory Relief – Against All Defendants)**

14 68. NORTHROP answers paragraph 68 of the FAC by incorporating by reference its
15 responses to paragraphs 1 through 65.

16 69. NORTHROP avers that paragraph 69 of the FAC contains legal conclusions not
17 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
18 response from Northrop, Northrop denies the allegations

19 70. NORTHROP avers that paragraph 70 of the FAC contains legal conclusions not
20 requiring a response from Northrop. To the extent the paragraph contains allegations requiring a
21 response from Northrop, Northrop denies the allegations.

22 71. NORTHROP avers that paragraph 71 of the FAC contains legal conclusions and
23 statements of Plaintiff's intent not requiring a response from Northrop. To the extent the paragraph
24 contains allegations requiring a response from Northrop, Northrop is without sufficient knowledge
25 or information to form a belief as to the truth of the allegations and on that basis denies them.

26 72. Answering paragraph 72 of the FAC, NORTHROP is without sufficient knowledge
27 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
28 denies them.

1 73. Answering paragraph 73 of the FAC, NORTHROP is without sufficient knowledge
2 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
3 denies them.

4 74. Answering paragraph 74 of the FAC, NORTHROP is without sufficient knowledge
5 or information to form a belief as to the truth of the allegations contained therein, and on that basis,
6 denies them.

7 **AFFIRMATIVE DEFENSES**

8 As separate and affirmative defenses to each of the causes of action assert in the FAC,
9 NORTHROP alleges:

10 **FIRST AFFIRMATIVE DEFENSE**

11 **(Failure to State a Claim)**

12 As a separate and additional defense, NORTHROP is informed and believes and thereon
13 avers the FAC and each claim for relief therein fails to state facts sufficient to state a claim for
14 which relief can be granted.

15 **SECOND AFFIRMATIVE DEFENSE**

16 **(Failure to State a Claim – Vagueness)**

17 As a separate and additional defense, NORTHROP is informed and believes and thereon
18 avers the and each claim for relief therein fails to state facts sufficient to state a claim for which
19 relief can be granted on the ground that the allegations are vague or unintelligible.

20 **THIRD AFFIRMATIVE DEFENSE**

21 **(Venue)**

22 As a separate and additional defense, NORTHROP is informed and believes and thereon
23 avers that venue is not proper in the above-entitled Court under the applicable forum statutes
24 including, but not limited to, *Code of Civil Procedure* section 394.

25 **FOURTH AFFIRMATIVE DEFENSE**

26 **(Standing)**

27 As a separate and additional defense, NORTHROP is informed and believes and thereon
28 avers the Plaintiff lacks standing to sue for any claims for relief alleged in the FAC.

FIFTH AFFIRMATIVE DEFENSE**(Laches)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that Plaintiff's claims are barred by the doctrine of laches.

SIXTH AFFIRMATIVE DEFENSE**(Unclean Hands)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that Plaintiff's claims are barred as a matter of equity because Plaintiff has "unclean hands" or has otherwise engaged in conduct sufficient to bar its claims.

SEVENTH AFFIRMATIVE DEFENSE**(Waiver)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that Plaintiff's claims are barred by the doctrine of waiver.

EIGHTH AFFIRMATIVE DEFENSE**(Estoppel)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that Plaintiff's claims are barred by the doctrines of equitable and collateral estoppel.

NINTH AFFIRMATIVE DEFENSE**(Failure to Mitigate)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that Plaintiff has failed to mitigate, reduce or otherwise avoid its alleged costs and damages. As a result, any damages awarded should be barred or reduced accordingly.

TENTH AFFIRMATIVE DEFENSE**(Comparative or Contributory Fault)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that Plaintiff cannot recover on its FAC or any claim for relief therein, and any recovery should be reduced because the alleged damages were caused in whole or in part by Plaintiff's own negligence and/or other acts and omissions that caused or contributed to any costs or damages

1 alleged in the FAC, and its recovery, if any, should be reduced by the Plaintiff's comparative fault
2 or degree of responsibility.

3 **ELEVENTH AFFIRMATIVE DEFENSE**

4 **(Contribution/Indemnity)**

5 As a separate and additional defense, NORTHROP is informed and believes and thereon
6 avers that should Plaintiff recover damages from it, NORTHROP is entitled to indemnification, in
7 whole or in part, from all persons and entities whose negligence, fault or other conduct proximately
8 contributed to Plaintiff's damages, if any, and NORTHROP is further entitled to have the amount of
9 said damages reduced to reflect its contribution, if any to said claimed damages.

10 **TWELFTH AFFIRMATIVE DEFENSE**

11 **(Offset)**

12 As a separate and additional defense, NORTHROP is informed and believes and thereon
13 avers that Plaintiff's claims are subject to an offset.

14 **THIRTEENTH AFFIRMATIVE DEFENSE**

15 **(Unjust Enrichment)**

16 As a separate and additional defense, NORTHROP is informed and believes and thereon
17 avers that Plaintiff would be unjustly enriched if it received the relief, including the equitable relief,
18 prayed for in the FAC.

19 **FOURTEENTH AFFIRMATIVE DEFENSE**

20 **(Failure to Perform Conditions or Exhaust Remedies)**

21 As a separate and additional defense, NORTHROP is informed and believes and thereon
22 avers that the FAC is barred because Plaintiff failed to exhaust its remedies and has not performed
23 all necessary conditions precedent or satisfied the jurisdictional prerequisites required prior to filing
24 the FAC.

25 **FIFTEENTH AFFIRMATIVE DEFENSE**

26 **(Statutes of Limitations)**

27 As a separate and additional defense, NORTHROP is informed and believes and thereon
28 avers that the FAC, and each cause of action therein is barred by applicable statutes of limitations,

1 including but not limited to, the statute of limitations set forth in *Code of Civil Procedure* §§ 338(a)
2 and 338(b).

3 **SIXTEENTH AFFIRMATIVE DEFENSE**

4 **(Intervening Acts)**

5 As a separate and additional defense, NORTHROP is informed and believes and thereon
6 avers that the Plaintiff cannot recover against NORTHROP, or any damages should be reduced,
7 because these damages, if any, were proximately caused by unforeseeable, independent, or
8 superseding events beyond the control and unrelated to any actions or conduct of NORTHROP.

9 **SEVENTEENTH AFFIRMATIVE DEFENSE**

10 **(CERCLA § 107(b) Defenses)**

11 As a separate and additional defense, NORTHROP is informed and believes and thereon
12 avers that any release or threatened release of a hazardous substance and the damages allegedly
13 resulting therefrom were caused solely by an act of God, an act of war, or an act or omission of a
14 third party, other than an employee or agent of NORTHROP, and other than one whose act or
15 omission occurred in connection with a contractual relationship, existing directly or indirectly, with
16 NORTHROP.

17 **EIGHTEENTH AFFIRMATIVE DEFENSE**

18 **(CERCLA 101(35) Innocent Landowner)**

19 As a separate and additional defense, NORTHROP is informed and believes and thereon
20 avers that it is an innocent land owner pursuant to CERCLA § 101(35).

21 **NINETEENTH AFFIRMATIVE DEFENSE**

22 **(Government Contractor)**

23 As a separate and additional defense, NORTHROP is informed and believes and thereon
24 avers that, at all relevant times, it was acting as a government contractor with respect to the
25 allegations in the FAC, and is entitled to all immunities and defenses that accompany such status.

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TWENTIETH AFFIRMATIVE DEFENSE**(Preemption Under CERCLA)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that Plaintiff's claims including, but not limited to, Plaintiff's claims under the Orange County Water District Act and California Superfund Act, as Plaintiff seeks to implement these statutes' provisions, are preempted by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601, as amended.

TWENTY-FIRST AFFIRMATIVE DEFENSE**(Due Process)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that Plaintiff's claims including, but not limited to, Plaintiff's claims under the Orange County Water District Act and California Superfund Act, are barred because the claims are barred for violation of due process under the California and United States Constitutions.

TWENTY-SECOND AFFIRMATIVE DEFENSE**(Constitutionality)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that the punitive damages claim violates the United States and California Constitutions.

TWENTY-THIRD AFFIRMATIVE DEFENSE**(Response Costs)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that Plaintiff bears the burden to demonstrate that it incurred recoverable response costs. To the extent that NORTHROP may have any burden in this regard, NORTHROP contends that Plaintiff has not incurred recoverable costs; or if response costs have been incurred, these costs were not reasonable or "necessary costs of response" or were inconsistent with the National Contingency Plan or similar policy statements.

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TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Divisibility)

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that if the damages alleged by Plaintiff, which NORTHROP denies, are found to have been caused by NORTHROP, such damages are distinct, divisible, and separate and therefore, NORTHROP cannot be held jointly and severally liable for such damages not caused by it.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

(Joint and Several Liability Improper)

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that the FAC fails to state a claim or set forth facts sufficient to support a finding of joint and several liability against NORTHROP.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

(Failure to Join Indispensable or Necessary Parties)

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that the FAC fails to include all indispensable or necessary parties for the just and complete adjudication of the matters alleged by Plaintiff.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

(De Minimis)

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that Plaintiff has not suffered any loss or damage. Further, any loss or damage sustained by Plaintiff are de minimus, remote, speculative or transient and hence are not cognizable at law.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

(De Minimis Discharges)

As a separate and additional defense, NORTHROP avers that to the extent chemicals were released by NORTHROP, the volume and toxicity of such were de minimus, both in absolute terms and relative to the contributions of other responsible parties and therefore were insufficient as a matter of law to give rise to liability.

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TWENTY-NINTH AFFIRMATIVE DEFENSE**(Ratification)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that the FAC is barred in whole or part by Plaintiff's ratification.

THIRTIETH AFFIRMATIVE DEFENSE**(Voluntary Assumption of Risk)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that the FAC is barred in whole or part because Plaintiff voluntarily assumed the risk of any and all conditions and damages it has alleged.

THIRTY-FIRST AFFIRMATIVE DEFENSE**(Natural Causes)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that the conditions and damages complained of by Plaintiff resulted from natural causes and NORTHROP is not liable for any damages sustained by Plaintiff on account of said natural causes.

THIRTY-SECOND AFFIRMATIVE DEFENSE**(Avoidable Consequences)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that each and every purported cause of action set forth in the FAC is barred and Plaintiff may not recover damages due to the failure of Plaintiff to take actions to avoid the damages, if any, alleged in the FAC.

THIRTY-THIRD AFFIRMATIVE DEFENSE**(Express or Implied Consent)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that Plaintiff consented, or is deemed to have consented, to the acts or omissions of NORTHROP that allegedly gave rise to Plaintiff's alleged damages.

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THIRTY-FOURTH AFFIRMATIVE DEFENSE**(Ex Post Facto Clauses)**

Plaintiff's claims are barred under the Due Process and Ex Post Facto Clauses of the United States Constitution and the California Constitution to the extent Plaintiff seeks to impose penalties or forfeitures on NORTHROP retroactively for conduct that was not actionable when it occurred.

THIRTY-FIFTH AFFIRMATIVE DEFENSE**(Prerequisites to Suit)**

As a separate and additional defense, NORTHROP is informed and believes and thereon avers that the FAC is barred in whole or part because Plaintiff has failed to meet the statutory and legislative prerequisites for filing and maintaining a lawsuit under the California Superfund Act and the Orange County Water District Act.

THIRTY-SIXTH AFFIRMATIVE DEFENSE**(Primary Jurisdiction/Preemption)**

As separate and additional defense, NORTHROP is informed and believes and thereon avers that the FAC and each claim therein, is barred, in whole or in part, because state law grants primary jurisdiction to the California State Water Resources Control Board, the Regional Water Quality Control Board (Santa Ana Region), the Department of Toxic Substances Control and/or other government agencies, and otherwise preempts and/or subsumes plaintiff's claims.

THIRTY-SEVENTH AFFIRMATIVE DEFENSE**(Ultra Vires Adoption of Environmental Remedial Plan)**

As a thirty-seventh separate and additional defense, NORTHROP is informed and believes and on that basis alleges that on or about November 16, 2005, plaintiff's Board of Directors approved a costly remedial plan called the North Basin Groundwater Protection Project (the "Groundwater Cleanup Project"), and that the District seeks in this action to recover all of the costs of implementing the Groundwater Cleanup Project from Defendant and the other defendants. Defendant is further informed and believes and on that basis alleges that the District's approval of the Groundwater Cleanup Project is invalid procedurally and substantively because, among other things, the District (1) failed to provide adequate notice of the District's consideration of the

1 Groundwater Cleanup Project to Defendant and the other defendants, (2) failed to permit Defendant
2 and the other defendants to provide comments on the Groundwater Cleanup Project, (3) failed to
3 consider all chemicals present in the groundwater and their likely sources, (4) failed to consider
4 more cost-effective and feasible alternatives to the Groundwater Cleanup Project, (5) failed to
5 evaluate the location and depths of extraction wells, and (6) failed to evaluate recharge of the treated
6 water.

7 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

8 **(Reservation of All Other Affirmative Defenses)**

9 NORTHROP presently has insufficient knowledge or information upon which to form a
10 belief as to whether additional affirmative defenses may be available. NORTHROP reserves the
11 right to assert and rely on any additional affirmative defenses that may become available or apparent
12 during discovery proceedings or trial.

13 **THIRTY-NINTH AFFIRMATIVE DEFENSE**

14 **(Reliance Upon Co-Defendants' Defenses)**

15 NORTHROP alleges as an affirmative defense that it intends to rely upon any defense
16 asserted by its co-defendants, or any other named or presently unnamed co-defendant.

17 WHEREFORE, NORTHROP prays for judgment against Plaintiff as follows:

18 1. That Plaintiff be awarded nothing in this action, and the FAC be dismissed with
19 prejudice;

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2. That judgment be entered in favor of NORTHROP on the FAC;
3. For NORTHROP's attorneys' fees incurred herein;
4. For NORTHROP's costs incurred herein; and
5. For such other and further relief as the Court deems just and proper.

Dated: July 5, 2006

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: 
Charles D. Ferrari

Attorneys for Defendant NORTHROP GRUMMAN
SYSTEMS CORPORATION (erroneously served as
Northrop Corporation and Northrop Grumman
Corporation)

LEWIS BRISBOIS BISGAARD & SMITH LLP


221 NORTH FIGUEROA STREET, SUITE 1200
LOS ANGELES, CALIFORNIA 90012-2601
TELEPHONE (213) 250-1800

VERIFICATION

I, the undersigned, certify and declare that I have read the foregoing, *Verified First Amended Answer and Affirmative Defenses of Northrop Grumman Systems Corporation to Plaintiff Orange County Water District's First Amended Complaint*, and know its contents.

I am an officer of defendant Northrop Grumman Systems Corporation, and am authorized to make this verification for and on its behalf and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the document described above are true.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Verification was executed on July 5, 2006, at Los Angeles, California.



Kathleen Salmas
Assistant Secretary

PROOF OF SERVICE*Orange County Water District v. Northrop Corporation, et al. - File No. 27073-3*

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 221 North Figueroa Street, Suite 1200, Los Angeles, California 90012.

On July 7, 2006, I served the following document described as **VERIFIED FIRST AMENDED ANSWER AND AFFIRMATIVE DEFENSES OF NORTHROP GRUMMAN SYSTEMS CORPORATION (erroneously named as Northrop Corporation and Northrop Grumman Corporation) TO PLAINTIFF ORANGE COUNTY WATER DISTRICT'S FIRST AMENDED COMPLAINT** on all interested parties in this action by placing ☒ a true copy ☐ the original thereof enclosed in sealed envelopes addressed as follows:

PLEASE SEE ATTACHED SERVICE LIST

☒ **(BY ELECTRONIC MAIL)** I served the foregoing document by electronically mailing a true and correct copy through Lewis Brisbois Bisgaard & Smith LLP's electronic mail system to the e-mail address(es), as set forth on the attached service list.

☐ **(BY FACSIMILE)** The facsimile machine I used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2008(e)(4), I caused the machine to print a record of the transmission.

☒ **(BY MAIL, 1013a, 2015.5 C.C.P.)**

☐ I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

☒ I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, this document will be deposited with the U.S. Postal Service on this date with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ **(FEDERAL)** I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on July 7, 2006, at Los Angeles, California.


CHERYL TAYLOR

SERVICE LIST

Attorney	Phone Numbers	Attorneys for
Duane C. Miller, Esq. MILLER, AXLINE & SAWYER A Professional Corporation 1050 Fulton Avenue, Ste. 100 Sacramento, CA 95825-4272	Tel: (916) 488-6688 Fax: (916) 488-4288 dmiller@toxictorts.org dboone@toxictorts.org taustin@toxictorts.org	<i>Attorneys for Plaintiff ORANGE COUNTY WATER DISTRICT</i>
Patrick L. Finley, Esq. Andrew T. Mortl, Esq. GLYNN & FINLEY, LLP One Walnut Creek Center 100 Pringle Avenue, Ste. 500 Walnut Creek, CA 94596 William Hvidtsen, Esq. P.O. Box 537012 Sacramento, CA. 95853-7012	Tel: (925) 210-2800 Fax: (925) 945-1975 amortl@glynnfinley.com pfinley@glynnfinley.com Telephone: (916) 351-8524 Facsimile: (916) 355-3603 william.hvidsten@gencorp.com	<i>Attorneys for Defendant AEROJET-GENERAL CORPORATION</i>
Richard J. McNeil, Esq. Regine Rutherford, Esq. IRELL & MANELLA LLP 840 Newport Center Dr., Ste. 400 Newport Beach, CA 92660-6324	Tel: (949) 760-0991 Fax: (949) 760-5200 rmcneil@irell.com	<i>Attorneys for Defendant AC PRODUCTS, INC.</i>
Clifton J. McFarland, Esq. GIBSON, DUNN & CRUTCHER LLP 333 S. Grand Avenue Los Angeles, CA 90071-3197	Tel: (213) 229-7000 Fax: (213) 229-7520 cmcfarland@gibsondunn.com	<i>Attorney for Defendant AMERICAN ELECTRONICS, INC.</i>
Kirk A. Wilkinson, Esq. Michael G. Romey, Esq. Latham & Watkins 633 West Fifth Street Suite 4000 Los Angeles, CA 90071	(213) 485-1234 Fax: (213) 891-8763 kirk.wilkinson@lw.com	<i>Attorneys for Raytheon</i>
Gary A. Meyer, Esq. Parker, Milliken, Clark, O'Hara & Samuelian 333 S. Hope Street, 28 th Fl. Los Angeles, CA 90017	Tel: 683-6599 Fax: (213) 683-6669 gmeyer@pmcos.com	<i>Attorney for Defendants EDO WESTERN CORPORATION AND MARK IV INDUSTRIES</i>
John C. Glaser, Esq. Nicholas G. Tonsich, Esq. GLASER, TONSICH & BRAJEVICH 765 W. 9 th Street San Pedro, CA 90731	Tel: (310) 241-1200 Fax: (310) 241-1212 gtblaw@earthlink.net	<i>Attorney for Defendant FULLERTON MANUFACTURING COMPANY</i>

Attorney	Phone Numbers	Attorneys for
<p>Alexis Gutierrez, Esq.</p> <p>Shaka H. Johnson, Esq. HIGGS, FLETCHER & MACK LLP 401 W. "A" Street, Ste. 2600 San Diego, CA 92101</p>	<p>Tel: (619) 236-1551 Fax: (619) 696-1410 agutierrez@higgslaw.com</p>	<p><i>Attorneys for Defendant MAG AEROSPACE INDUSTRIES, INC.</i></p>
<p>David W. Burhenn, Esq. BURHENN & GEST 624 S. Grand Avenue, Suite 2200 Los Angeles, CA 90017</p>	<p>Tel: (213) 688-7714 Fax: (213) 688-7716 dburhenn@burhennigest.com</p>	<p><i>Attorneys for Defendant MOORE WALLACE NORTH AMERICA, INC.</i></p>
<p>C. Forrest Bannan, Esq. Brian I. Hamblet, Esq. BANNAN, GREEN, FRANK & TERZIAN LLP 555 S. Flower Street, 27th Floor Los Angeles, CA 90071</p>	<p>Telephone: (213) 362-1177 Facsimile: (213) 362-1188 cfbanan@bgftlaw.com bihamblet@bgftlaw.com ijohnson@bgftlaw.com</p>	<p><i>Attorneys for Defendant, FAIRCHILD CORPORATION and Attorneys for Defendant ALCOA GLOBAL FASTENERS, INC.</i></p>
<p>Jeffrey B. Groy, Esq. Vice President & Senior Counsel - Environmental VIACOM INC. 299 South Main Street, Suite 1800 Salt Lake City, UT 84111</p>	<p>Telephone: (801) 359-3193 Facsimile: (801) 524-0791 jeff.groy@cbc.com</p>	<p><i>Attorneys for Defendant CBS BROADCASTING</i></p>
<p>Mary Ellen Hogan, Esq. Partner Holme Roberts & Owen LLP 777 Figueroa St. Suite 2800 Los Angeles, CA 90017-5833</p>	<p>Direct: 213.572.4330 Fax: 213.572.4400 maryellen.hogan@hro.com</p>	<p><i>Attorneys for Defendant CBS BROADCASTING</i></p>
<p>Donald E. Bradley, Esq. David Bournazian, Esq. Musick, Peeler & Garrett 650 Town Center Drive, Suite 1200 Costa Mesa, CA 92626</p>	<p>714. 668.2400 Fax: 714.668.2490 dbradley@mpglaw.com d.bournazian@mpglaw.com</p>	<p><i>Attorneys for Defendant THE ARNOLD ENGINEERING COMPANY</i></p>
<p>Steven P. McDonald, Esq. Luce Forward Hamilton & Scripps LLP 600 West Broadway, Suite 2600 San Diego, CA 92101</p>	<p>619.236.1414 619.232.8311 fax smcdonald@luce.com</p>	<p><i>Attorneys for Cross-Defendant WEYERHAEUSER COMPANY</i></p>
<p>Richard S. Price, II, Esq. 1235 North Harbor Suite 200 Fullerton, CA 92832</p>	<p>714.871.1132 714.871.5620 RSPriceII@aol.com</p>	<p><i>Attorneys for Cross-Defendant KHYBER FOODS INTERNATIONAL</i></p>

Attorney	Phone Numbers	Attorneys for
J. Craig Williams, Esq. The Williams Law Firm 100 Bayview Circle, South Tower Suite 330 Newport Beach, California 92660-2984	949-833-3088 949-833-3058 fax jcraigwms@wlf-law.com	<i>Attorneys for Cross-Defendant PCA INDUSTRIES, LLC (erroneously sued as PCA Metals Finishing, Inc.)</i>
Richard A. Dongell, Esq. Paul d. Rasmussen Dongell Lawrence Finney Claypool 707 Wilshire Blvd., 45 th Fl. Los Angeles, CA 90017 (213) 943-6100 Fax: (213) 243-6101	rdongell@dlflawyers.com prasmussen@dlflawyers.com	<i>Attorneys for MEGGITT DEFENSE SYSTEMS, INC.</i>
John C. Carpenter, Esq. LAW OFFICES OF JOHN C. CARPENTER One Bunker Hill, 8 th Fl. 601 West Fifth Street Los Angeles, CA 90071	(213) 489-1400 Fax: (213) 489-4863 jcarpenter@jclaw.net	Attorneys for TELEX COMMUNICATIONS HOLDINGS, INC.
Ryan K. Hirota, Esq. BERGER KAHN P.O. Box 19694 Irvine, CA 92623-9694 2 Park Plaza, Suite 650 Irvine, CA 92614	(949) 474-1880 Fax: (949) 474-7265 rhirota@bergerkahn.com	Attorneys for SIGMA ENTERPRISES, INC.